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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/782,270      | 02/12/2001  | Will Craig Meyer     | 1116-101.US         | 9947             |

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COLIN P ABRAHAMS  
5850 CANOGA AVENUE  
SUITE 400  
WOODLAND HILLS, CA 91367

EXAMINER

HOEY, BETSEY MORRISON

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1724

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-5

**Office Action Summary**

Application No.

09/782,270

Applicant(s)

MEYER, WILL CRAIG

Examiner

HOEY, BETSEY

Art Unit

1724

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 07 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 13 and 14 is/are allowed.
- 6) ☐ Claim(s) 1-5, 9 and 12 is/are rejected.
- 7) ☐ Claim(s) 6-8, 10 and 11 is/are objected to.
- 8) ☐ Claim(s) 1-17 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2
- 4) ☐ Interview Summary (PTO-413) Paper No(s)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

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1. Claims 15-17 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, line 2, the plural "contacting passages" lacks agreement with claim 1, since in claim 1 a singular contacting passage is recited. Claim 9 is written as being dependent on claim 9, leading to terms that lack antecedent basis in the claim. Claim 9 should depend on claim 8. Claim 10 is rejected because it depends on a rejected claim.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1-4 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin et al., U.S. Patent No. 6,372,148. Martin et al. teach an apparatus for purifying water in a hot tub or spa. Referring to Figure 1 of Martin et al., the apparatus comprises the spa 50, where water is circulated; a line 56 for extracting water from the spa, which

includes pump 58; a filter 60; an ozone generator 12; a venturi assembly which receives water from line 56 and ozone from the ozone generator 12 and contacts the water and ozone; a series of pipes downstream of the venturi that together form three 90° bends which inherently causes shear and mixes water and ozone in a turbulent manner; and a return line following the third 90° bend for transporting the water and ozone mixture back to the spa.

6. Claims 5, 9 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 6-8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 13 and 14 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

Claim 5 would be allowed if rewritten to overcome the rejection under 35 USC 112 and if rewritten in independent form including all of the limitations of claim 1, because the prior art of record fails to teach, disclose, or fairly suggest a water treatment apparatus comprising an extractor line for removing water from a device using water as a circulating medium; a contactor/mixer member, contacting passage, and return line having the arrangement and configuration recited in instant claim 1; and a plurality of deflecting baffles in the contacting passage. It is submitted that while baffles are well known in the art of mixing gas and liquid, there is no suggestion of baffles in the

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apparatus of Martin et al., nor is there any motivation provided by Martin et al. for one of ordinary skill in the art to include baffles.

Claims 6 and 7 would be allowed if rewritten in independent form including all of the limitations of claims 1 and 4 because the prior art of record fails to teach, disclose, or fairly suggest a water treatment apparatus comprising an extractor line for removing water from a device using water as a circulating medium; a contactor/mixer member, contacting passage with a series of pipes, and return line having the arrangement and configuration recited in instant claim 1; wherein the series of pipes comprises a plurality of substantially vertical pipes connected at right angles to a series of substantially horizontal pipes to form a helix-like configuration. It is submitted that while series of pipes in a helical configuration are well known in the art of mixing gas and liquid, there is no suggestion of such a series of pipes in the apparatus of Martin et al., nor is there any motivation provided by Martin et al. for one of ordinary skill in the art to include pipes in this configuration.

Claims 8-10 would be allowed if rewritten to overcome the rejection under 35 USC 112 and if rewritten in independent form including all of the limitations of claim 1 because the prior art of record fails to teach, disclose, or fairly suggest a water treatment apparatus comprising a spot treatment device for treating selected areas in a device where water is circulated with doses of a water and ozone mixture, in combination with all of the limitations of claim 1. It is submitted that Martin et al. does not suggest any means for spot treating an area of their spa.

Claim 11 would be allowed if rewritten in independent form including all of the limitations of claim 1 because the prior art of record fails to teach, disclose, or fairly

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suggest a water treatment apparatus comprising a cooling tower having a water basin and tower fill elements above the water basin as the device of claim 1, and a return line which transports an ozone and water mixture to a position at or near the top end of the fill elements in the device. in combination with all of the other limitations of claim 1

Claims 13 and 14 are allowed because the prior art of record fails to teach, disclose, or fairly suggest a water treatment apparatus for treating water in a cooling tower having a basin and tower fill elements positioned over the basin, wherein water cascades down the water fill elements to cool the water, comprising: an extractor line, ozone generation means, contactor/mixer, contacting passage configured to create turbulent mixing of water and ozone, and a return line for transporting the water and ozone mixture to the tower fill elements of the device such that ozone is removed by air stripping when cascading down the fill elements, wherein the elements are in the specific arrangement recited in instant claim 13.

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is (703) 305-3934. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6:00 PM, and on alternate Fridays from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972. The fax phone number for official after final faxes for this Group is 703-872-9311 for all other official faxes the number is 703-872-9310, and for unofficial faxes the number is (703) 305-7115. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*Betsey M. Hoey*  
BETSEY MORRISON HOEY  
PRIMARY EXAMINER

November 4, 2002